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In re Application of  
Hiroshi Ohnishi et al.  
Serial No. 07/985,199  
Filed: December 3, 1992  
Attorney Docket No. 381/41092

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: DECISION ON PETITION  
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This is a decision on the petition filed February 19, 1993, requesting that the above-identified application be accorded a filing date of December 3, 1992. The application was recently forwarded to this office for consideration of the petition.

The application was deposited on December 3, 1992, without an executed oath or declaration or the names of all the inventors. Accordingly, on January 6, 1993, Application Division mailed a Notice requiring the names of all the inventors and stating that the filing date would be the date of receipt of the inventors' names. An oath or declaration in compliance with 37 CFR 1.63 and the \$130.00 surcharge, if necessary, were also required.

In response, on February 4, 1993, a paper providing the names of the inventors was filed. Also, on February 22, 1993, a signed declaration and the \$130.00 surcharge were filed. Thereafter, the application was processed with a filing date of February 4, 1993, prior to a decision on the present petition.

On February 19, 1993, the present petition was filed wherein it is argued that the names of all inventors were provided in the application on December 3, 1992. In support, the petition refers to a certified copy of applicants' priority document filed on December 3, 1992, as containing the names of all of the inventors. The petition is accompanied by a certified translation of page 1 of the priority document.

The argument is not well taken. The filing of the priority document did not fulfill the requirements of 37 CFR 1.41, since it was not clear that the inventorship in the U.S. application was the same as in the priority application and there was no

instruction for the PTO to look at the priority document for the inventors' names.

In view of the above, it is necessary to construe the petition filed on February 19, 1993, as one filed pursuant to 37 CFR 1.53(b) requesting that the delay in supplying the names of all the inventors be excused.

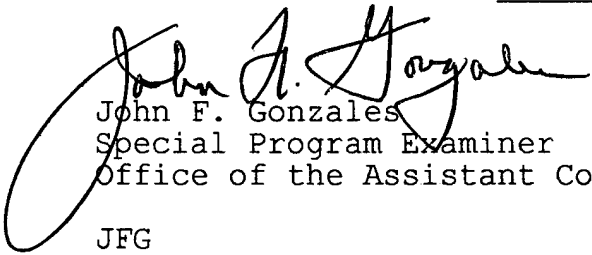
Since a petition pursuant to 37 CFR 1.53(b) has now been filed explaining the delay in supplying the names of all the inventors, the delay may be excused.

The petition is granted to the extent indicated above.

The \$130.00 petition fee will not be refunded, since the petition was necessary to accord the application the requested filing date.

The application is being returned to Application Division for correction of the filing date to December 3, 1992.

Thereafter, the application will be returned to Examining Group 2300 for examination in due course.



John F. Gonzales  
Special Program Examiner  
Office of the Assistant Commissioner for Patents

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